

REMARKS/ARGUMENTS

The Invention

This invention provides for an anti-allergy agent comprising a cell penetrating peptide [CPP] from Kaposi fibroblast growth factor fused to either of two specific inhibitors of mast cell activation, *Gat* or *Gai*₃. In a test of four different CPPs, the claimed CPP from Kaposi fibroblast growth factor [Seq ID No. 3] was surprisingly discovered to be the *only* CPP able to transport its inhibitor domains in a manner that **inhibited** mast cell activation.

Status of the pending claims

Claims 63-70 and 72-78 are pending.

Examiner Interview

Pursuant to Rule 133(b), applicants acknowledge the interview of January 26, 2009, with Examiner Chun Dahl. During the interview, applicants' attorney discussed the outstanding provisional double patenting rejections. Examiner Chun suggested that prosecution could be expedited if Applicants filed terminal disclaimers reciting the appropriate application numbers.

Double patenting

The Examiner provisionally rejects pending claims 63-70 and 72-78 over co-pending applications 11/214, 588 and 11/495,625. In response, Applicants submit a Terminal Disclaimer to overcome the rejection over the 11/214,588 application, with this Amendment. With regard to the remaining provisional double patenting rejection, application 11/495,625 was expressly abandoned by Applicants on February 11, 2009 and is no longer co-pending.

Thus, both provisionally double patenting rejections are rendered moot. Applicants respectfully request these rejections be removed.

Rejections Under 35 U.S.C. § 103

The Examiner rejects claims 63, 66-70, and 72-78 as allegedly obvious over Holgate *et al.* (British Medical Bulletin (1992) 48(1): 40-50) in view of Adridor *et al.* (Science (1993) 262:1569-72) and Lin *et al.* (US Pat. No. 5,807,746).

Additionally, the Examiner rejects claims 64 and 65 as allegedly obvious over Holgate *et al.* in view of Adridor *et al.*, Lin *et al.* (US Pat. No. 5,807,746), Avruch *et al.* (US Pat. No. 6,103,692) and Jackson *et al.* (J. Am Chem. Soc. (1994) 116:3220-3230).

With regard to these rejections, Applicants stand on the arguments as presented in the Brief on Appeal, filed June 12, 2008.

Appeal Brief

The presently submitted Appeal Brief makes no reference to the outstanding provisional double patenting rejections. In view of the submitted terminal disclaimer and express abandonment, no further changes to the Appeal Brief are thought necessary. It would thus seem appropriate for the Examiner to either allow the claims or present an Examiner's answer.

CONCLUSION

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,

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